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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/815,928	04/02/2004	Sigmund Echtler	9477.0001-00	9445
22852	7590	06/27/2005	EXAMINER	
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP 901 NEW YORK AVENUE, NW WASHINGTON, DC 20001-4413				YIP, WINNIE S
		ART UNIT		PAPER NUMBER
		3637		

DATE MAILED: 06/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/815,928	ECHTLER, SIGMUND	
	Examiner Winnie Yip	Art Unit 3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 02 April 2004.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-6 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All    b) Some \* c) None of:  
1. Certified copies of the priority documents have been received.  
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |                                                                                                                                                    |                                                                             |
|----------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                                                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                                               | Paper No(s)/Mail Date. _____                                                |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>April 2, 2004</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|                                                                                                                                                    | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

This is a first office action for application Serial No. 10/815,928 which is a continuation of application PCT/EP02/10965 filed September 30, 2002.

### ***Priority***

1. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Europe on October 4, 2001 and November 23, 2001. It is noted, however, that applicant has not filed a certified copy of the application of EP 01123780.7 and EP 01127963.5 as required by 35 U.S.C. 119(b).

### ***Drawings***

2. The drawings are objected to under 37 CFR 1.84(h)(1) because of the exploded view, i.e. Fig. 1, with the separated parts within the same figure, should be embraced by a bracket in order to show the relationship or order of assembly of various parts.

3. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as

“amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

These claims are generally narrative and indefinite, failing to conform to current U.S. practice. They appear to be a literal translation into English from a

foreign document and are replete with grammatical and idiomatic errors. For example as follow:

Regard to claim 1, it is unclear what does mean by following phrases “is designed as full section” (lines 2-3), “the inserted state is of concave design” (line 11), and “moreover designed” (line13) merely recite a method of design rather than structural limitation. They cause the claims vague and definite. In addition, the term “exerting pressure” is cannot be determined.

Regard to claim 5, the position of “the inside of said air-borne hall” is not previously defined.

Regard to claim 6, the phrase “with a rib and two arms” is confusing whether it refers to the housing rail or to the filler section.

An appropriated correction is required.

#### ***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by Endall et al. (UK Patent No. GB 2,138,882).

Endall shows and discloses a device comprising a housing rail (10) having a U-shaped cross-section, the housing rail including two arms (12) extending parallel to each other, the arms having a bead (13) at upper ends of their inner surface, the beads being separated with a distance (14), a deformable filler section (15), at least one fabric rim (16) being arranged between the housing rail and the deformable filler section such that the filler section and the fabric rim are insertable into the housing rail under suitable exerting pressure against the housing rail, wherein the filler section is squeezed and deformed between two arms in an inserted state, and the beads of the arms block the removal of the filler section and the fabric rim from the housing rail after being inserted into the rail, the filling section (14) is deformable and resumes its original shape upon removal from the housing rail and keeps the shape it resumes upon insertion into the housing rail, and the housing rail having external ribs (18) for supporting the housing rail fixing bellow ground (see Fig. 4) or mounting above ground (see Fig. 3).

8. Claims 1-4 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Brooks (US Patent No. 4,817,655).

Brooks shows and discloses a device comprising a housing rail having a U-shaped cross-section including two arms (62, 61) extending perpendicular from a

rib (60), each arms having an upper end portion and a curved central portion, the rib (60) having a recess (66) for receiving a fastener (150), and a cavity formed between the filler section and the house rail, the upper end portion of the arms (62, 61) having a bead (71) at their inner surface, the beads being separated with a predetermined distance, a deformable filler section (132), at least one fabric rim (22) being arranged between the housing rail and the deformable filler section such that the filler section and the fabric rim are inserted into the housing rail under suitable exerting pressure to against the housing rail, wherein the filler section is squeezed and deformed between two arms in an inserted state, and the beads of the arms block the removal of the filler section and the fabric rim from the housing rail after being inserted into the rail, the filling section (14) is deformable and resumed its original shape upon removal from the housing rail and keeps the shape it resumes upon insertion into the housing rail, and the housing rail having bottom ribs (63, 64) that is capable for fixing the housing rail over an uneven surface.

*Allowable Subject Matter*

9. Claim 5 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

10. The prior art of record, whether taken individually or in combination, does not reveal or render obvious a method for setting up an air-borne shelter, comprising steps of rolling up a fabric rim fixed to a house rail by a filler section together with a cover rim, and facing towards an inside of the shelter and employing a sealing member to form a bead to bond the cover rim to the fabric rim

*Citations*

1. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Cramer '078, Cramer '306, Ballin '880, Stoyke '885, Milliken et al. 176, Gode '764, Mock '176, Lucous '077, Peleg '810 Hatzithanasiou 433 teach various devices having the house rail and a deformable filler section similar to the claimed invention. Trihey, Malet '696, and Harkins '875 teaches a cover fixed one end to a housing rail by a filler section as similar to the claimed invention.

**Inquiry Contacts**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Winnie Yip whose telephone number is 703-308-2491. The examiner can normally be reached on M-F (9:30-6:30), Second Monday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703-308-2486. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.



Winnie Yip  
Primary Examiner  
Art Unit 3637

wsy  
July 22, 2005